

THE UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

MARIA PEREZ

Plaintiffs,

v.

ALBERTO R. GONZALES, as Attorney General of

The United States; MICHAEL J. ASTRUE

As Commissioner of the Social Security Administration)

Defendants,

Civil Action

No: _____

COMPLAINT

I.

INTRODUCTION

1. This is an individual action for declaratory and mandatory relief, authorized by the Declaratory Judgment Act, 28 USC Section 2201 and 28 USC Section 1361, and the Administrative Procedure Act, et seq.

2. This action challenges the delay of the Social Security Administration to produce a complete copy of the plaintiff's social security file which is required in her pending motor vehicle lawsuit which is pending in the Superior court of the State of Connecticut and is known as Perez v. Burnett, Docket No. FST-CV-04-400054-S.

II.
JURISDICTION

3. This Court has jurisdiction over the present action pursuant to 28 USC § 1331, 28 USC § 2201, the Declaratory Judgment Act; 5 USC § 702, 28 USC §1361.

III.
VENUE

4. Venue is proper in this district pursuant to 28 USC Section 1391 (e) (2) in that the underlying case for which the records are sought to be compelled is in Connecticut and the records must be admissible in a Connecticut Court.

IV.
THE CLAIM

5. The Plaintiff, Maria Perez, is an individual and a recipient of Social Security benefits..

6. The Social Security Administration, is a Federal agency that is mandated under the law through its Commissioner, 5 USC Section 552, to supervise, implement, and enforce the Social Security system, including production requests.

7. Defendant, Michael J. Astrue, is the duly appointed Commissioner of the Social Security Administration and charged with complying with 5 USC Section 552,

among other things.

8. Defendant, Alberto Gonzales, is the duly appointed Attorney General of the United States and charged under the law with supervisory authority of the Department of Justice, and has the authority on questions of law in relation to the Social Security Administration.

9. Plaintiff, Maria Perez, has a motor vehicle lawsuit pending at Superior Court in Stamford, Connecticut, bearing Docket No. FST-CV-04-4000054-S.

10. Plaintiff, Maria Perez, is required to produce her entire Social Security file in Connecticut as Discovery for her pending motor vehicle lawsuit.

11. On June 6, 2005, plaintiff's counsel forwarded a standard request for records, via regular mail, to the Social Security Administration, located in White Plains, NY, on behalf of the plaintiff.

12. On July 8, 2005, plaintiff's counsel forwarded a second standard request, via telefax, to the Social Security Administration of White Plains, NY.

13. On July 13, 2005, plaintiff's counsel forwarded a third standard request, via telefax, to the Social Security Administration of White Plains, NY.

14. During August of 2005, plaintiff visited the Social Security office of White Plains, NY to request her file in person. She was turned away and told to wait and she would get them in the mail.

15. On October 4, 2005, plaintiff's counsel forwarded a fourth standard request, via telefax, with copies of all prior requests, to the Social Security Administration in White Plains, NY.

16. On October 21, 2005, plaintiff's counsel forwarded a detailed written fifth an final request along with copies of all prior requests, for the entire social security file of the plaintiff, on behalf of the plaintiff, via regular mail.

17. To date, no Social Security file and/or records have ever been produced and to the undersigned's knowledge, no action has been taken on this request.

18. The Defendants have had sufficient information, time and appropriate authorizations to process the request of the plaintiff.

19. Agents of the Social Security Administration, have maintained that the sole reason for the delay is that they have to "track down" the file.

20. Defendants owe Plaintiff the duty to comply with her request and produce the requested social security file in a timely manner, and have unreasonably failed to perform that duty despite having nearly two years to do so.

21. Plaintiffs have exhausted all administrative remedies that may exist. No other remedy exists for Plaintiff to resolve Defendants' delay and to assure that the social security file of the plaintiff will be timely produced.

22. If the plaintiff fails to produce the file in response to requests for discovery, her claim may be subject to dismissal.

WHEREFORE, Plaintiffs pray that the Court to:

- (1) Assume jurisdiction of this cause.
- (2) Issue a Subpoena allowing the undersigned to compel an agent of the Social Security Administration to appear at a deposition and to produce the file or otherwise explain the delay to the satisfaction of the Connecticut Superior court.
- (3) Declare that the Social Security Administration's refusal to comply with production requests for the plaintiff's Social Security file is contrary to the provisions of law;
- (4) Compel Defendants and those acting under them to perform their duty and comply with the social security production requests of the plaintiff;
- (5) Grant such other and further relief as this Court deems proper and equitable under the circumstances; and
- (6) Grant attorneys fees and costs of court.

RESPECTFULLY SUBMITTED this 15th day of May, 2007.

THE PLAINTIFF,
MARIA PEREZ

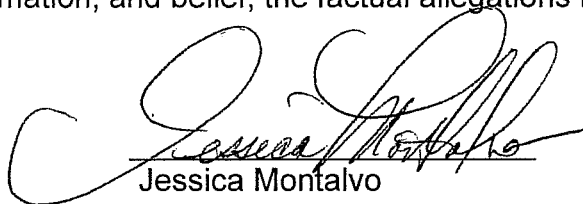
By: _____

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Bar No.: CT 13312

Affidavit of Jessica Montalvo

The undersigned, being duly sworn, deposes and says that:


- 1) I am over the age of 18 and believe in the obligation of the oath.
- 2) I am a legal assistant at the firm of Barr & LaCava.
- 3) Among my administrative duties is to assist with the Maria Perez file.
- 4) I was the person responsible for the communications between this office and the Social Security administration.
- 5) To the best of my knowledge, information, and belief, the factual allegations in the complaint are accurate.


Jessica Montalvo

State of Connecticut
County of Fairfield ss: Stamford

The above was sworn to and subscribed to before me on this 15th day of

May, 2007



Notary Public/Commissioner of the Court